

Chapter III

Agreements And Initiatives

Clean Utah

EPA and UDEQ have signed an MOA outlining their commitment to the Clean Utah program, which encourages regulated entities to take steps beyond compliance to protect and improve the environment. This MOA is incorporated into this PPA by reference (see: http://www.deq.utah.gov/cleanutah/docs/EPA-UT_AGREEMENT_3-3.pdf).

As of FY06 there are currently eleven Clean Utah members - 8 at entry level and 3 partners. It is anticipated that implementing Clean Utah will take considerable leadership at both EPA and UDEQ. EPA and UDEQ agree that program managers within each Agency are responsible for ensuring the MOA is implemented and appropriately incorporated into planning and accountability processes. Furthermore, managers are responsible to enhance cross-program communication about Clean Utah activities within each agency to insure the success of the program.

EPA and UDEQ also agree that any Clean Utah modifications to the inspection schedules agreed to in this PPA will be negotiated jointly and incorporated into the PPA by reference. The Agencies will review the accomplishments and any outstanding issues associated with Clean Utah and work toward resolutions and improvements as part of the PPA and End-of-Year Joint Evaluation processes.

Compliance/Enforcement Process and EPA WatchList

The diagram on page III-3 outlines the general compliance/enforcement process agreed to by UDEQ and EPA. More detailed compliance/enforcement diagrams have been prepared for the Air, Drinking Water, Solid and Hazardous Waste, UPDES and UST programs to address their specific regulatory requirements. These additional process diagrams are contained in Appendix C.

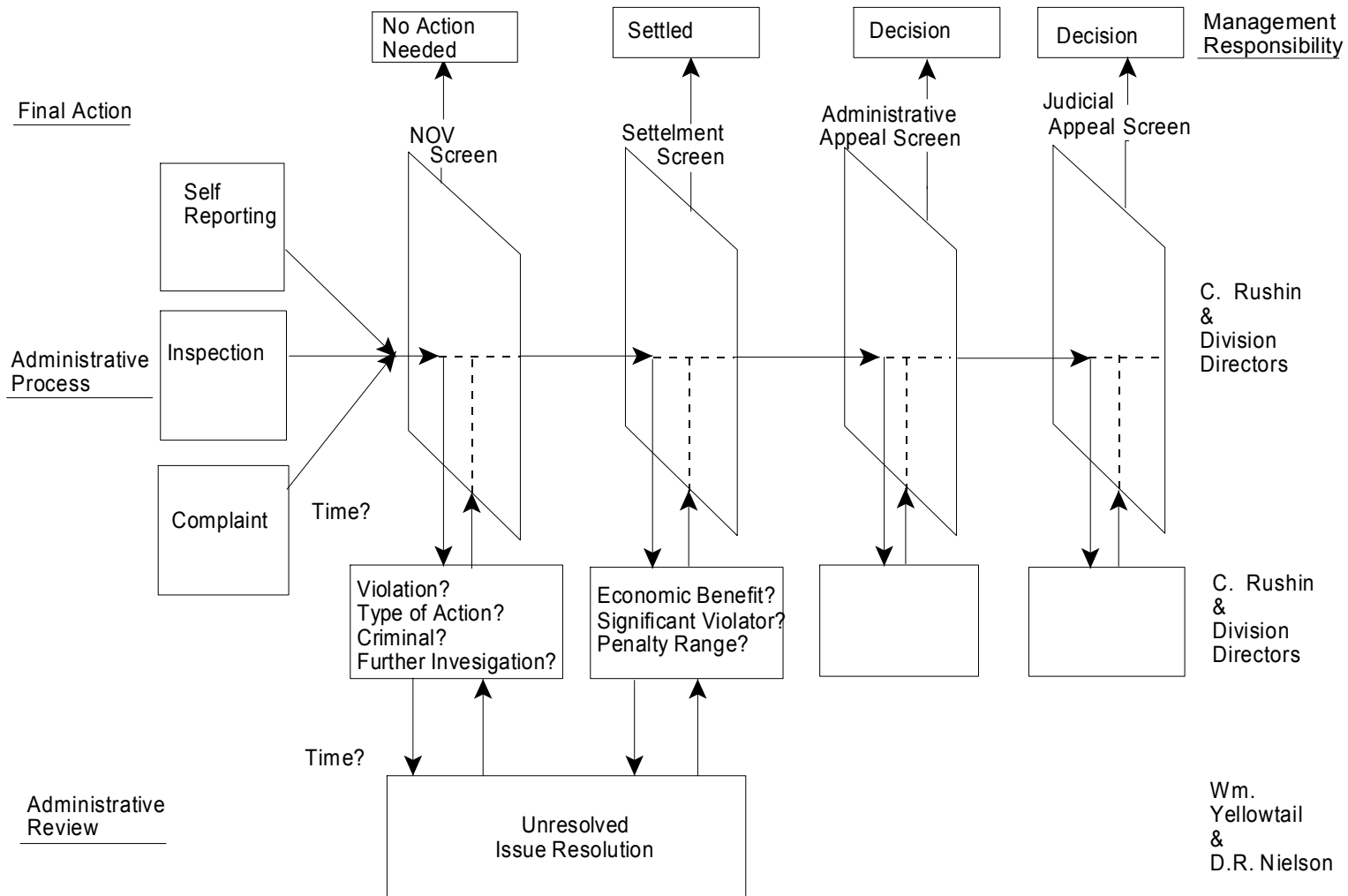
EPA Headquarters (OECA) has developed an enforcement “Watch List” which they describe as “a management tool that enhances the enforcement program’s ability to identify and track facilities with serious violations and no apparent formal enforcement response (has been taken) under the Clean Air Act, the Clean Water Act and the Resource Conservation and Recovery Act.” EPA will compile the list using data contained in their legacy systems, which is known to have errors and reporting gaps. Therefore, EPA and UDEQ agree that UDEQ will be provided an opportunity to:

1. Review and cleanup the data used to create the list;
2. Review and comment on the potential list of facilities for the Watch List;
3. Review and comment on the draft Watch List prior to internal EPA distribution; and

4. Work jointly with EPA to discuss any unaddressed facilities and to coordinate a plan to address them (which may include work-sharing).

UDEQ and EPA further agree to develop a process to insure these opportunities for data correction, review, and comments are met.

COMPLIANCE/ENFORCEMENT PROCESS



5/14/1999

Results Based Management

This PPA includes the FY 2000 Core Performance Measures negotiated subsequent to the "Addendum To 1997 Joint Statement on Measuring Progress under the National Environmental Performance Partnership System: Clarifying the Use and Applicability of Core Performance Measures" signed by EPA and ECOS on April 22, 1999. CPM's are highlighted in the UDEQ Goals and Objectives section.

UDEQ and EPA will discuss improved measures of results during the period covered by this agreement. The intent is to identify measures that are mutually agreeable to UDEQ and EPA.

Emerging Issues

If both parties agree, UDEQ and EPA will reopen the PPA and amend to address emerging issues not originally discussed during the PPA negotiations. This "reopener clause" is intended to address new issues that emerge during the PPA period. In addition, during the course of this agreement, UDEQ and EPA will examine how a "reopener clause" will operate for a future, multi-year document.

Environmental Information Management Initiative (EIMI)

The concept of the Environmental Information Management Initiative (EIMI) is that the Utah Department of Environmental Quality (DEQ) will "enhance environmental protection decision making by sharing quality information with all interested parties at anytime". One of our goals is to deliver accurate data to the public, businesses and other interested parties on a 24 x 7 basis through the Internet in a simple, integrated and seamless process.

The EPA Network Readiness Grant will assist our department to work toward this goal by allowing us to leverage our investment of resources and technology to meet the objectives of EIMI, improve

data management and increase the efficiencies of data flow and data exchange. The work plans for the EPA grants secured to support EIMI are incorporated in this PPA by reference. The 03 Exchange Network Grant Workplan project activities will be complete by June 2007. In addition to the midyear and end-of year report, a final technical report and FSR will be submitted to EPA.

Using the EIMI business plan, we will have a business template for business decision-making, which will guide DEQ through the transitions and development of new systems and tools to make environmental information available, accessible and useful to support our business. This plan will help us focus on data integration, data quality and data integrity as well as redesign of DEQ data flows and business processes.

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Environmental Justice (EJ)

UDEQ and EPA agree that “Environmental Justice (EJ) means the fair treatment and meaningful involvement of people of all races, income, and cultures with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment implies that no person or group of people should shoulder a disproportionate share of negative environmental impacts resulting from the execution of environmental programs.” UDEQ and EPA agree to conduct all of their base regulatory programs within the framework and spirit of this EJ principle. UDEQ and EPA agree to communicate about EJ issues, grant outreach, and Grantee activities in Utah and continue to assist, upon request, EJ grant funded activities in the state. Lastly, UDEQ and EPA agree to exchange information, which, if appropriate, may give rise to opportunities for addressing additional EJ issues. EPA is prepared to offer EJ training to UDEQ for the purpose of increasing understanding and improving clarity about EJ concepts and application. UDEQ and EPA will discuss the applicability of this training to UDEQ programs.

EPA will provide the state access to its environmental justice Geographic Information System and other environmental justice tools and resources, as requested.

Implementation of Goals and Measures

By entering into this agreement, UDEQ and EPA agree to implementation of the goals and measures contained herein. The EPA commits to fund UDEQ in the amounts specified in the Performance Partnership Grant application. Should final appropriations be different (i.e. more or less) than these amounts, both parties may renegotiate the goals and measures outlined in this agreement.

Quality Assurance Program/Quality Management Plan (QMP)

UDEQ continues to operate an EPA approved Quality Assurance Program that meets or exceeds federal requirements for all programs and provides input into the regional/national databases. The quality assurance plans developed by UDEQ for the RCRA, CWA, CAA, delegated programs are incorporated into this agreement by reference and will be reviewed annually by UDEQ and updated with the technical assistance of EPA as appropriate.

The aforementioned quality assurance language has been in Utah's PPA since FY 97. To meet the requirements of the latest EPA Order 5360.1 on Quality Management Plans, dated May 5, 2000, we are also providing the Internet link to our Quality Management documents. The UDEQ and EPA agree that this direct Internet link provides access to documentation that is "equivalent" to a QMP being prepared and submitted. The direct URL's for this site are:

http://www.deq.utah.gov/About_DEQ/Planning/EPA_QMP.htm

<http://www.epa.gov/quality/qs-docs/5360-1.pdf>--EPA Order 5360.1

<http://www.epa.gov/quality/qs-docs/r2-final.pdf>--EPA Guidance on QMPs

<http://www.epa.gov/quality/qs-docs/r5-final.pdf>--EPA Guidance on QAPPs

State Grant Templates

III-6

The Office of Management and Budget (OMB), in EPA's FY 2007 budget, directed EPA to develop a standardized template that all states will use to develop and submit state grant agreements that will include clear linkages to EPA's Strategic Plan and long-term and annual goals, as well as consistent requirements for regular performance reporting. The template will also allow for meaningful comparisons between various states' past and planned activities and performance, making progress more visible and programs more transparent.

EPA's goal is to ensure that the Agency is responsive to the OMB directive, while affording states minimum disruption to preparation of grant work plans. EPA's approach is to develop a 'template' that consists of existing measures and data that states already report, serves as an addendum to current grant work plans, and can be implemented in the FY 2007 grant cycle.

The template will not add another layer of reporting. The template will include a limited set of existing performance measures and measures developed during OMB's Program Assessment and Rating Tool (PART) reviews that address high level environmental and program outcomes. The information to report these measures will be drawn to the extent possible from data currently provided by states and regions through a variety of national data systems and existing reporting mechanisms. In some cases, EPA may have to work with states to produce state-by-state data.

This limited set of measures is being identified for these continuing environmental state grant programs and PPGs covered by the OMB language:

Office of Air and Radiation

- State and Local Assistance (CAA Section 105)
- Radon

Office of Enforcement and Compliance Assurance

- Toxic Substances Compliance (Lead and PCB/Asbestos)
- Pesticides Enforcement

Office of Prevention, Pesticides and Toxic Substances

- Lead
- Pesticides Program Implementation

Office of Solid Waste and Emergency Response

- Hazardous Waste Financial Assistance
- Brownfields (CERCLA Section 128)
- Underground Storage Tanks

Office of Water

- Pollution Control (CWA Section 106)
- Non-point Source Pollution Control (CWA Section 319)
- Beaches Protection

- Public Water System Supervision
- Underground Injection Control

Regions will fill out the template in consultation with the State during FY07 Grant negotiations. The Utah Department of Environmental Quality recognizes this requirement and will negotiate the appropriate measures and incorporate the templates by reference in the PPA as EPA measures and guidance become final.

The link to the template guidance website:

<http://www.epa.gov/ocfopage/npmguidance/template.htm>

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Supplemental Environmental Projects

EPA and UDEQ agree that Supplemental Environmental Projects (SEP's) can and should appropriately be used as a part of certain environmental compliance settlements.

Training

UDEQ and EPA agree to jointly identify training opportunities to support the goals and objectives in this PPA. During FY07, EPA agrees to support UDEQ in UDEQ's leadership succession and training efforts.

Utah Base Program

The Utah Department of Environmental Quality (UDEQ) certifies that it has, maintains, and implements adequate programs in conformance with federal and state law and regulations and conditions set forth in authorizing documents (delegation, MOA's, enforcement agreements) for the following federal laws: the Clean Water Act (CWA); the Safe Drinking Water Act; the Resource Conservation and Recovery Act (RCRA); the Clean Air Act (CAA); the Pollution Prevention Act; the Toxic Substances Control Act; and the National Environmental Policy Act. This agreement is not intended to and does not supersede authorization/delegation packages or enforcement agreements.

Currently Utah has the following delegated programs:

CAA

- Air Toxics (Partial)
- NESHAPS
- New Source Review (SIP)
- NSPS
- PSD (SIP)
- Title V

CWA

- Construction Grants
- Non-Point Source (SIP)
- NPDES Water Quality Permits
- Pretreatment
- Sludge Management (Biosolids)
- State Revolving Fund (SRF)
- Water Quality Standards (SIP)

FIFRA

- Enforcement
- Groundwater Protection (SIP)
- Pesticides Certification
- Worker Protection Safety

RCRA

- Base Program
- Boilers & Industrial Furnaces (Interim)
- Corrective Action
- Land Disposal Restr. 1/3 Wastes
- Land Disposal Restr. 2/3 Wastes
- Land Disposal Restr. 3/3 Wastes
- Land Disposal Restr. California Waste
- Land Disposal Restr. Construction & Demo Wastes
- Mixed Waste

- Solid waste
- Toxicity Characterization
- UST

SDWA

- Drinking Water
- UIC Class V (General)
- UIC Class II (Petroleum Related)
- Wellhead Protection (SIP)

TSCA

- AHERA Waiver (Enf)
- Asbestos (MAP)

CERCLA (Non-Delegable)

EPCRA (Non-Delegable)